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POINT PAPER

10 November 1997

SUBJECT: Inherently Governmental Functions

PURPOSE: Provide information about inherently governmental functions and their role in the QDR datacall

FACTS:

- < Inherently governmental functions are those functions that are intimately related to the public interest and require either:
 - < The exercise of discretion in applying government authority, or
 - < The making of value judgements in government decision making.
- < Inherently Governmental Functions normally fall into two categories:
 - < The act of governing, i.e. the discretionary exercise of government authority.
 - < Monetary transactions and entitlements.
- < The QDR datacall was tasked by AMCRM to the MSCs on 3 October 1997.
 - < Chapter 7 of the QDR datacall asks the MSCs to identify functions to study for potentially contracting-out.
 - < Inherently governmental functions cannot be contracted out and must be performed by government employees.
- < AMC Office of Command Counsel provided guidance on inherently governmental functions to the MSCs on 14 October 1997, 27 October and 4 November 1997. The guidance is intended to assist the MSCs in answering the application of the inherently governmental functions policies throughout AMC. The guidance consist of two parts:
 - < A summary of existing policies (OFPP Policy Letter 92-1, Revised Supplemental Handbook to OMB Circular A-76)

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prepared by AMCCC.

- < Templates that designate the functions listed in AMC r 10-2 as either inherently governmental or contractible prepared by the HQ, AMC functionals and reviewed by AMCCC.
- < Inherently governmental functions determination are a matter of policy not law. The HQ, AMC functionals are responsible for ensuring consistent determinations within their functional areas. Determination must be made on a case by case by case basis considering the totality of the circumstances, such as whether the function involves discretionary activities or value judgements that commit the government to a course of action in a way that significantly affects the public interest.
- < The MSCs responses to the QDR datacall are due to AMC on 14 November 1997. AMC must report results to DA on 19 December 1997.

RELEASED BY: EDWARD J. KORTE
COMMAND COUNSEL
AMCCC

ACTION OFFICER: Diane Travers
ASSOC. COUNSEL
AMCCC-PA

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DSN 767-8031

DSN 767-7571

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